

Celebrating And Educating Women

A presentation for ONGC Employees on the occasion of
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Presented by: Advocate Neetika Bajaj

Prepared by: Advocate Neetika Bajaj & Advocate Astha
Garg

Women's Legal Rights in India

Women's Legal Rights in India

Women's legal rights in India stem from the Constitution of India:

- **Article 15(1):** Prohibits the State from discriminating on the grounds of religion, race, caste, gender or place of birth.
- **Article 15(3):** The State can make any special provisions for women and children.
- **Article 16:** This Article provides for equality of opportunity in matters of public employment irrespective of religion, race, caste, gender, descent, place of birth or residence.

Women's Legal Rights in India

- **Article 39(a):** The State to direct its policy towards securing for men and women equally the right to an adequate means of livelihood.
- **Article 39(d):** Directs the State to secure equal pay for equal work for both men and women.
- **Article 42:** Makes it mandatory for State to make provisions for securing for just and humane conditions of work and maternity relief.
- **Article 51(A)(e):** Duty of every citizen of India to renounce practices derogatory to the dignity of women.

Women's Legal Rights in India



Women's Rights at the Workplace

Three important legislations that have been enacted to provide equal rights and protection to women at workplace:

1. **Equal Remuneration Act, 1976** provides that every employer is under a legal obligation to pay the same wages for men and women if they perform the same work or work of a similar nature, even if it is performed at different geographical locations.

Women's Rights at the Workplace

2. **The Maternity Benefit Act, 1961 (alongwith Amendment Act, 2017)** provides women benefits to enable a woman to take care of her child without the fear of losing her job / source of income.

Some salient features of this legislation are:

- Applicable whether you are a biological, adoptive or commissioning mother (rearing child through surrogacy).
- Entitled to the maternity leave for 26 weeks (for biological mother) or 12 weeks (adoptive or commissioning mother).
- In case of miscarriage, woman entitled to six weeks of paid leaves immediately following the day of her miscarriage.
- Women having two surviving children are entitled to 12 week's maternity leave for each subsequent birth.

Women's Rights at the Workplace

- Provision for work from home for the new mothers: the provision says that *“in case the nature of the work assigned to a woman is of such nature that she may work from home, the employer may allow her to do so after availing of the maternity benefit for such period and on such conditions as the employer and the woman may mutually agree.”*
- Any failure or contravention with the provisions of the act invites imprisonment and/or fine for the employer.

Women's Rights at the Workplace

3. **Protection of Women from Sexual Harassment (Prevention, Prohibition and Redressal) Act, 2013** ensures a safe and conducive environment for women to work.

Some salient features of this legislation are:

- Unwelcome sexually tinted behaviour whether directly or by implication such as (i) physical contact and advances (ii) demand or request for sexual favours, (iii) making sexually coloured remarks, (iv) showing pornography, or (v) any other unwelcome physical, verbal or non-verbal conduct of a sexual nature constitutes violation of this Act;
- The Act requires setting up of a grievance redressal forum, which is already in place at ONGC;

Women's Rights at the Workplace

- This Act is applicable to all workplaces, establishment, company or organization, whether public or private employing 10 or more employees;
- Employers who do not comply may face a penalty of up to INR 50,000 alongwith other repercussions.

Workplace sexual harassment is a form of gender discrimination that which violates a woman's fundamental rights to equality and right to live with dignity. This Act attempts to curtail it.

Women's Rights at the Workplace

Indian Penal Code, 1860:

- In addition to action which the Management may initiate under the Sexual Harassment of Woman at Workplace (Prevention, Prohibition & Redressal) Act 2013, the newly introduced Section 354A of the IPC recognises “Sexual Harassment” a “cognizable offense” i.e. a person charged with Sexual Harassment may be arrested without a warrant.

Women's Rights at Home

I. Daughters

Hindu Succession Act, 1956 [as amended by the Hindu Succession (Amendment) Act, 2005]:

- The amendment of 2005 removed gender discriminatory provisions in the Hindu Succession Act, 1956. The salient features of this Act as amended in 2005 are as follows:
 - The daughter has the same rights in the property as the son.
 - A female heir can now ask for partition in the respect of a dwelling house, wholly occupied by the joint family (unlike prior to the Amendment when only male heirs could choose to divide their respective shares).
- Daughters born out of a live-in relationship of parents can claim their share in the self acquired property of their parents.

Women's Rights at Home

Code of Civil Procedure, 1973 (Section 125): This provision entitles children (son or daughter) to claim maintenance from their father, irrespective of legitimacy of birth.

Women's Rights at Home

II. Wives

- **Hindu Succession Act, 1956:** Rights in property of the husband as a Class I Heir.
- **Code of Civil Procedure, 1973** (Section 125) puts an obligation on the husband to maintain his divorced wife except when the wife is able to maintain herself, or lives in adultery or refuses to live with her husband without reasonable cause or when both of them live separately by mutual consent. Under the aforesaid section, any Indian woman irrespective of her caste and religion can claim maintenance from her husband.
- **Indian Penal Code, 1860:**
 - Section 376B- Sexual intercourse by husband upon his wife during separation without her consent -punishable for a term not less than two years which may extend to seven years.
 - Marital Rape- the judgment is reserved by the Hon'ble High Court of Delhi- there are conflicting views on each side and by both the genders- it is definitely a very debatable topic- while many women suffer in silence- there is also a risk of misuse.

Women's Rights at Home

- **Medical Termination of Pregnancy Act, 1971:** Pregnancies of less than 12 weeks may be terminated based on the opinion of a single doctor. Termination of pregnancies longer than 12 weeks but less than 20 weeks requires the approval of two doctors.
- The Act spells forth the circumstances under which a pregnancy can be terminated or aborted, as well as the people who are certified to perform the procedure and the location where it will take place.
- The following are some of these qualifications-
 - Women whose physical and/or mental health were endangered by the pregnancy
 - Women facing the birth of a potentially handicapped or malformed child
 - Rape
 - Pregnancies in unmarried girls under the age of eighteen with the consent of a guardian
 - Pregnancies in 'lunatics' with the consent of a guardian
 - Pregnancies that are a result of failure in sterilization

Women's Rights at Home

- Muslim Women (Protection of Rights on Divorce) Act, 1986 protects the right of a Muslim woman to be granted maintenance after divorce by her former husband. Sections 3 and 4, respectively, deal with Mehr and other properties to be given to the wife at the time of divorce and order for payment of maintenance.
- Muslim Women (Protection of Rights on Marriage) Act, 2019 declared the practice of triple talaq as void and illegal- has made the act of triple talaq a cognizable offence attracting upto 3 years of imprisonment with fine.
- Dowry Prohibition Act, 1961: any demand for cash or valuables before or after the marriage invites the provisions of this Act - harassment of the wife can also invite Section 498A of the IPC- husband or the relative of the husband can be subjected to punishment of three years- it is a non-bailable offence and the officer can arrest without the warrant also.

Women's Rights at Home

Indian Penal Code, 1860:

- **304B. Dowry death**
 - Where the death of a woman happens within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry
 - Such husband or relative shall be deemed to have caused her death.
- **498-A. Husband or relative of husband of a woman subjecting her to cruelty** is to be punished with imprisonment of either description for a term which may extend to three years, and shall also include fine. Cruelty may be both mental and physical. Forced sexual relations can also amount to cruelty under this section.

Women's Rights at Home

III. Mothers

- A woman is entitled to maintenance from her children who are not dependents.
- A widowed mother has a right to take a share equal to the share of a son/daughter if a partition of joint family estate takes place among the children.
- All property owned by her may be disposed by sale, will or gift as she chooses.
- In case she dies intestate, her children inherit equally, regardless of their sex.

Women's Rights at Home

Common to Daughters, Wives and Mothers:

Protection of Women from Domestic Violence Act, 2005

- This legislation seeks to provide for the protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind (physical, emotional, sexual or economic) occurring within the family and for matters connected therewith or incidental thereto.
- The law was designed to protect the wife or female live-in partner from domestic violence perpetrated by the husband or male live-in partner or his family, but it also covers other women residing in the home, such as sisters, widows, or mothers.

Women's Rights at Home

Shared Household:

- When a woman is married, she acquires the right to live in her husband's home- called her matrimonial home.
- A widow cannot be thrown out from the house in which she was living with her husband, after her husband's death.
- A shared household is where the woman resides or has resided (i.e. has left or has been thrown out) with the man in a domestic relationship. It does not matter that the shared household is not owned by either the woman or the man i.e. the house is on lease / license or joint family property.

- **The Maintenance and Welfare of Parents and Senior Citizens Act, 2007**
 - However, this right to shared household is not sacrosanct- The Delhi High Court, in a recent judgment, has said that a daughter-in-law does not have an indefeasible right of residence in a shared household under the Domestic Violence Act and she can be evicted at the behest of aged in-laws who are entitled to live peacefully.
 - The parents in law can seek eviction of the daughter in law under if it is necessary and expedient to ensure the maintenance and protection of a senior citizen and the parent (parents may or may not be senior citizens- which means 60 years or above). This act is made for the maintenance and welfare of parents and senior citizens.

Women's Rights in Society

- **Criminal Law Amendment Act, 2013**
 - The Criminal Law Amendment Act, 2013 that came into force on February 3, 2013 amended as well as inserted new sections in the Indian Penal Code with regard to sexual offences.
 - Some of the new offences recognized by the Criminal Law Amendment Act are sexual harassment (Sec. 354A), assault with intent to disrobe her (Sec. 354B) or to outrage her modesty (Sec. 354), Voyeurism (Sec. 354C), Stalking (354D), etc.
- **Right to Zero FIR:** A woman has the right to file an FIR at any police station irrespective of the location where the incident occurred or a specific jurisdiction it comes under. This is called a Zero File. This FIR can later be moved to the Police Station in whose jurisdiction the case falls under. This ruling was passed by the Supreme Court to save the victim's time and prevent an offender from getting away scot-free.

Women's Rights in Society

- **Right to free legal aid:**
 - An aggrieved woman is entitled to claim free legal services from the legal services authorities recognized under the Legal Services Authorities Act, 1987 irrespective of whether you can afford legal services on your own.
 - There are District, State, and National legal Services Authorities constituted at District, State and National level respectively.
 - Legal services include assisting in the conduct of any case or other legal proceedings before any Court or tribunal or authority and advising on legal matters.

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Thank You



**Feel free to ask any questions or
contact us at the following number
with any query:**

Neetika Bajaj (+91-9999646269)

(neetika.bajaj@zeus.firm.in/neetika.bajaj90@gmail.com)